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10/805,685	03/19/2004	Brian J. Conaway	3984500-146939	8539
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRIAN J. CONAWAY, KEITH KRISTIANSEN,
DAVID DEMAR, and MARK MILLMAN

Appeal 2009-004214
Application 10/805,685
Technology Center 3600

Before WILLIAM F. PATE, III, MICHAEL W. O'NEILL, and
KEN B. BARRETT, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Brian J. Conaway et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision finally rejecting claims 23-25, 27-34, and 36-50. Specifically, the Examiner rejects under 35 U.S.C. § 102(b) claims 23, 25, 27, 28, 30-32, 36, 38-42, 46, and 47 as anticipated by Edhardt (US 2,660,446, issued Nov. 24, 1953); and rejects under 35 U.S.C. § 103(a) claims 24, 43-45, and 48-50 as obvious over Edhardt in view of Leger (US 6,017,053, issued Jan. 25, 2000); claims 29 and 37 as obvious over Edhardt in view of Donze (US 5,026,079, issued Jun. 25, 1991); and claims 33 and 34 as obvious over Edhardt in view of Aielli (US 6,186,523, issued Feb. 13, 2001). Appellants canceled claims 1-22 and 35. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

The Invention

The claims on appeal relate to a collapsible wheelbarrow.

Claim 23, reproduced below, is illustrative of the subject matter on appeal.

23. A wheelbarrow comprising, in combination:
- a rigid front bracket;
 - a wheel rotatably secured to the front bracket and rotatable about a horizontally, laterally extending axis of rotation;
 - first and second handle arms pivotably attached to the front bracket;
 - a rigid tray; and
 - a clamping device extending between the first and second handle arms and removably applying a laterally-extending clamping force between the first and second handle arms to move the first and second handle arms relative to one another in a lateral direction and clamp the tray between the first and second handle arms.

The Rejections

The Examiner posits that Edhardt's disclosure of a bolt provided with a winged nut that, pursuant Edhardt's disclosure, acts as a "suitable clamping means" (*see* col. 1, ll. 26-34) anticipates the claimed "clamping device extending between the first and second handle arms and removably applying a laterally-extending clamping force between the first and second handle arms to move the first and second handle arms relative to one another in a lateral direction and clamp the [wheelbarrow's] tray between the first and second handle arms" as set forth in claims 23 and 31. Ans. 3.

Contentions

Appellants contend, *inter alia*, that the structure the Examiner has identified as anticipating the claimed clamping device does not appear to extend between the handle members or the inclined shafts. As such, this structure does not anticipate the claimed feature of the clamping device extending between first and second handle arms. App. Br. 11.

DISCUSSION

Pertinent Facts

Figure 2 of Edhardt is reproduced below.

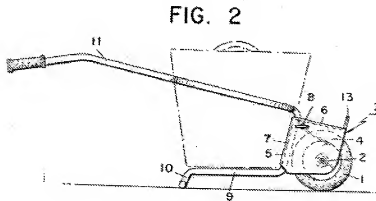


Figure 2 of Edhardt depicts a side view of the folding wheelbarrow described in Edhardt's disclosure.

As shown the bolt and winged nut structure diagrammatically depicted as 8 in Figure 2 is forward of the pair of shafts 7 and handle-bars 11.

Principles of Law

To establish anticipation, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *See Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001).

Analysis

Claims 23 and 31 require that the clamping device extends between the first and second handle arms. The bolt and winged nut structure in Edhardt that the Examiner finds to meet the claimed clamping device does not extend between the first and second handle arms, but instead is forward of the handle arms. *See Pertinent Facts supra*. Since Edhardt's bolt and winged nut structure does not extend between first and second handle arms, it is not arranged as recited in claims 23 and 31; and therefore, while, *arguendo*, it is suitable for clamping, does not anticipate the claimed clamping device as set forth in claims 23 and 31, *viz.*, extending between handle arms.

The Examiner does not rely on Leger, Donze, or Aielli to cure the deficiency noted above concerning Edhardt's disclosure.

DECISION

Based on the foregoing, we are constrained to reverse the Examiner's decision to reject claims 23, 25, 27, 30-32, 36, 38-42, 46, and 47 for lack of novelty and claims 24, 29, 33, 34, 37, 43-45, and 48-50 for want of non-obviousness.

REVERSED

mls

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